Notice of Allowability	**Application No.** 10/680,048	**Applicant(s)** CANDELA ET AL.	
	Examiner Hien X. Vo	**Art Unit** 2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *application filed on 10/07/03*.
2. ☒ The allowed claim(s) is/are *1-76*.
3. ☒ The drawings filed on *04 March 2004* are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All b) ☐ Some* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

    * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
    (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

    Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Allowable Subject Matter

1. Claims 1-76 allowed.

2. The following is an examiner's statement of reasons for allowance:

Although the prior art disclose several claimed limitations, for example:

Slovin (U.S. Patent No. 6,144,855) discloses a network system including a plurality of access points, a multiplicity of network stations wherein for each station, a ratio between available channel fraction and station channel demand is defined, and wherein each of the multiplicity of stations roams between the plurality of access points so as to equalize the ratios over at least a subset of the multiplicity of stations.

Masood et al. (U.S. Patent No. 6,580,981) disclose a system and method for sending and receiving messages, such as status or request-for-help messages, automatically between mobile nodes and ultimately to an appropriate destination via a wireless infrastructure. When a node determines that such infrastructure is not available, the node will communicate the necessary information to another mobile node located in, for instance, a vehicle. In this case, the receiving node stores the information, then transmits the information from that node to the wireless infrastructure equipment, so that the infrastructure can forward the message to an appropriate destination once such equipment is in range of this second node.

As per claims 1 and 76, none of the prior art teach singularly or in combination using a quality of service (QoS) module of the computer to monitor the performance of each of a predetermined plurality of computer functions or conditions; using the QOS module to detect each of one or more exceptions of predetermined kinds, an exception being detected when one of the predetermined computer functions or conditions enters into one of said states; using the QOS module to record the occurrence of exceptions for a predeterminded period of time; using the QOS module to attribute a value to the exception based on the sensed state and kind of the exception; using the QOS module to aggregate the values of the exceptions for the predetermined period of time according to a predetermined function in order to derive a quality of service index.

As per claims 18, 20, none of the prior art teach singularly or in combination the steps of at the information access point, providing a quality of service module for monitoring respective performance levels of each of a plurality of functions or conditions of the information access point; for each of the plurality of functions or conditions, storing predetermined criteria the presence of any of which is indicative of a state of degraded performance; declaring an exception when a sensed performance level of a function or condition enters into a respective stored state; using the quality of service module to determine whether a user is present at the information access point at the time that the exception occurred; weighting the exception with a user presence factor having a value which is a function of whether the user was present at the time the exception occurred; and calculating a numerical quality of service index indicative of the quality of service rendered by the computer from one or more of the weighted exceptions.

As per claims 25, 43, none of the prior art teach singularly or in combination an operational user profile stored at the IAP, the operational user profile storing predetermined criteria for each of a plurality of states for each of a plurality of predetermined IAP functions or conditions, the states being indicative of different degrees of degraded performance; an exception capture component of a quality of service (QoS) module of the IAP periodically sensing the performance of each predetermined function or condition of the IAP, comparing the performance to the respective criterion for the function or condition stored in the operational user profile, the exception capture component declaring an exception when a sensed performance of any predetermined function or condition enters into one of said states, and a QOS calculator of the QOS module for calculating a single QOS index for the IAP based on one or more declared exceptions.

As per claims 48, 52, none of the prior art teach singularly or in combination a quality of service (QoS) module for periodically monitoring performance levels of each of a plurality of predetermined functions or conditions of the IAP; an application performance meter for periodically recording performance data for each software application or process running on the IAP; a QOS baseline calculator coupled to the application performance meter for periodically receiving the recorded application performance data, the QOS baseline calculator heuristically calculating a plurality of baseline application performance criteria based on the recorded application performance data, the baseline application performance criteria being made available to an exception capture component of the QOS module for comparison with the sensed application performance levels, the exception capture component of the QOS module declaring an exception upon a sensed application performance level deviating from a respective application performance criterion by more than a predetermined amount.

As per claims 60, 71, none of the prior art teach singularly or in combination periodically monitoring performance levels of each of a plurality of predetermined functions or conditions of the computer; comparing the sensed performance levels to stored criteria each indicative of a state of said functions or conditions, the states for which said criteria are stored each defining a level of degraded performance for a respective function or condition; declaring an exception whenever at least one of the monitored functions or conditions enters into one of said states, and calculating, as a function of all such declared exceptions occurring within a predetermined period of time, a QOS index indicative of the relative operational state of the computer during that period of time.

As per claim 68, none of the prior art teach singularly or in combination declaring an exception at a time when the performance of one of a predetermined number of computer functions or conditions enters into a state indicative of a degraded level of performance; determining whether, at such time, a user was present at the computer; attributing one of a plurality of stored base values to the exception based on its kind and severity; weighting the base value of the exception with a value indicative of the presence or absence of the user at the computer at such time; and calculating, as a function of all such weighted exceptions occurring within a predetermined period of time, a quality of service index indicative of the relative operational state of the computer.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hien X. Vo whose telephone number is (571) 272-2282. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hien Vo
03/31/05

MICHAEL NGHIEM
PRIMARY EXAMINER